

Le Séminaire de Québec
3, rue de l'Université
Québec 4, QUEB.

A Brief History from Official Sources of the Legislation respecting Separate Schools since the year 1863 in the United Province of Canada, and in the Dominion since Confederation.

See page 14, giving abstract of debates in both Houses, in year 1875, when a Constitution was granted to the North-west Territories.

FROM ASSEMBLY JOURNALS, PAGES 95 TO 130—5TH MARCH, 1863—
AS FOLLOWS:—

The Order of the Day for the second reading of the Bill to amend an Act respecting Separate Schools in Upper Canada, in so far as the same relates to Roman Catholic Schools, being read;

Mr. Scott moved, seconded by Mr. McCann, and the Question being proposed, that the Bill be now read a second time;

Mr. Burwell moved, in amendment to the Question, seconded by Mr. Mackenzie, that the word 'now' be left out and the words 'this day six months' added at the end thereof.

And the Question being put on the amendment, the House divided: and the names being called for, they were taken down, as follow:—

YEAS:

Messieurs

Bell (North Lanark), Dunsford,
Biggar, Ferguson,
Burwell, Haultain,
Cameron, Matthew C Hooper,
Cockburn, Jones,
Dickson, Mackenzie,

McKellar,
Morris,
Mowat,
Munro,
Notman,
Pope,

Scatcherd,
Scoble,
Smith, and
Stirton.—22.

NAYS:

Messieurs

Alleyn,
Anderson,
Archambault,
Ault,
Baby,
Beaubien,
Beaudreau,
Bell (Russell),
Benjamin,
Benoit,
Blanchet,

Clarke,
Cowen,
Crawford,
Daly,
Dawson,
Desaulniers,
Dorion, J. S.,
Dostaler,
Dufresne, Alex.,
Dufresne, Joseph,
Dunkin,

Laframboise,
Langevin,
Macdonald, J. A.,
Macdonald,
J. S. A. G.,
Macdonald,
McGee,
McGowan,
McGowan,
McGowan,
McGowan,
McGowan,
McGowan,

Robinson,
Robitaille,
Rose,
Ross, J. J.
(Champlain),
Ross, J. S. (Dundas),
Rykert,
Scott,
Sherwood,
Sicotte, A. G.,
Simard,



Bourassa,	Evanturel,	Mongenaix,	Simpson,
Bown,	Foley,	Morin,	Somerville,
Brousseau,	Fortier,	Morrison,	Street,
Buchanan,	Fournier,	O'Halloran,	Sylvain,
Cameron, John H.	Gaudet,	Patrick,	Taschereau,
Carling,	Harcourt,	Poupore,	Tassé,
Caron,	Hébert,	Powell,	Wallbridge,
Cartier,	Huot,	Price,	Walsh, and
Cauchon,	Kierzkowski,	Rankin,	Wilson.—80.
Chapais,	Labreche,	Rémillard,	

So it passed in the negative.

Then, the main Question being put, the House divided: and the names being called for, were taken down, as follow:—

YEAS:

Messieurs

Alleyn,	Clarke,	Labreche-Viger,	Robinson,
Anderson,	Cowan,	Laframboise,	Robitaille,
Archambault,	Crawford,	Langevin,	Rose,
Ault,	Daly,	Macdonald, John A.,	Ross, J. J.
Baby,	Dawson,	Macdonald, J.S.A.G.,	(Champlain),
Beaubien,	Dcrlon, J. B. E.,	McCann,	Ross, J. S. (Dundas),
Bell (Russell),	Dostaler,	McDougall,	Scott,
Benjamin,	Dufresne, Alex.,	McGee,	Sherwood,
Benoit,	Dufresne, Jos.,	McLachlin,	Sicotte, Atty. Gen.,
Blanchet,	Dunkin,	Mongenaix,	Simard,
Bourassa,	Evanturel,	Morin,	Simpson,
Bown,	Foley,	Morrison,	Somerville,
Brousseau,	Fortier,	O'Halloran,	Street,
Buchanan,	Fournier,	Patrick,	Sylvain,
Cameron, John H.,	Gaudet,	Poupore,	Taschereau,
Carling,	Harcourt,	Powell,	Tassé,
Caron,	Hébert,	Price,	Wallbridge,
Cartier,	Huot,	Rankin,	Walsh, and
Cauchon,	Kierzkowski,	Rémillard,	Wilson—80.
Chapais,			

NAYS:

Messieurs

Bell (No. Lanark),	Dunsford,	McKellar,	Scatcherd,
Biggar,	Ferguson,	Morris,	Scoble,
Burwell,	Haultain,	Mowat,	Smith, and
Cameron, M. C.,	Hooper,	Munro,	Stirton—22.
Cockburn,	Jones,	Notman,	
Dickson,	Mackenzie,	Pope,	

So it was resolved in the Affirmative.

The Bill was accordingly read a second time, and referred to a Select Committee composed of Mr. Scott, the Honourable Mr. Attorney-General J.

S. Macdonald, the Honourable John A. Macdonald, Mr. Clarke and Mr. McCann, to report thereon with all convenient speed; with power to send for persons, papers and records.

It will be observed that an Upper Canada majority voted for the second reading of the Bill—twenty of these may be classed as Conservatives and sixteen as Liberals. Nearly all the members of the Liberal administration supported the Bill, including the premier, the Honourable J. S. Macdonald. The Bill was also supported by the leader of the Opposition, the late Sir John A. Macdonald, and the leading members of the Conservative party, including the Honourable John Hilyard Cameron, Mr. Benjamin, then Grand Master of the Orange Order, and Mr. Anderson, Grand Treasurer of the Order.

12TH MARCH, 1863.

The Order of the Day for the third reading of the Bill to amend 'An Act respecting Separate Schools' in Upper Canada, in so far as the same relates to Roman Catholic Schools, being read:

Mr. Scott moved, seconded by Mr. McCann, and the question being proposed; that the Bill be now read the third time;

Mr. D. A. Macdonald moved, in amendment, seconded by Mr. Biggar, that all the words after 'now' to the end of the question be left out, and the words 'recommitted to a Committee of the Whole House for the purpose of adding the following words at the end of the second section:—"Provided always, that no such Separate Schools shall be established in any Township, unless the Roman Catholic residents therein constitute the 'minority' of the inhabitants of such School Section," inserted instead thereof.'

And the Question being put on the amendment, the House divided: and the names being called for, they were taken down, as follow:—

YEAS:

Messieurs

Ault,	Dunsford,	McKellar,	Scoble,
Bell (North Lanark),	Ferguson,	Morris,	Simpson,
Bell (Russell),	Harcourt,	Mowat,	Smith,
Biggar,	Haultain,	Munro,	Somerville,
Bown,	Hooper,	Notman,	Stirton,
Burwell,	Jackson,	Pope,	Street,
Cockburn,	Jones,	Ross, J. S. (Dundas)	White, and
Cowan,	Macdonald, Donald A.	Rymal,	Wright.—36.
Dunkin,	Mackenzie,	Scatcherd,	

NAYS:

Messieurs

Abbott,	Daly,	Huot,	Powell,
Alley,	Daoust,	Jobin,	Prévost,

Anderson,	Dawson,	Joly,	Price,
Archambault,	Denis,	Kierzkowski,	Remillard,
Baby,	Desaulniers,	Labrèche-Viger,	Robitaille,
Beaubien,	Dorion, A. A.,	Laframboise,	Rose,
Beaudreau,	Dorion, J. B. E.,	Langevin,	Ross, J. J.
Benoit,	Dostaler,	Macdonald, John A.,	(Champlain),
Blanchet,	Drummond,	Macdonald, J.S.A.G.	Ryerson,
Bourassa,	Dufresne, Alex.,	McCann,	Rykert,
Brousseau,	Dufresne, Jos.,	McDougall,	Scott,
Buchanan,	Evanturel,	McGee,	Sherwood,
Cameron, John H.,	Foley,	McLachlin,	Sicotte, Atty. Gen.,
Carling,	Fortier,	Mongenais,	Simard,
Caron,	Fournier,	Morin,	Sylvain,
Cartier,	Gagnon,	Morrison,	Tassé,
Cauchon,	Gaudet,	Morton,	Tett,
Chapais,	Hebert,	O'Halloran,	Walsh, and
Clarke,	Howland,	Patrick,	Wright.—78.
Crawford,	Huntington,	Poupore,	

So it passed in the Negative.

And the Question being again proposed, that the Bill be now read the third time;

The Honourable Mr. Cameron moved, in amendment to the Question, seconded by Mr. Anderson, That all the words after 'now' to the end of the Question, be left out, and the words 'recommitted to a Committee of the Whole House for the purpose of amending the thirteenth clause, by leaving out the words "to grant certificates of qualification" in the third and fourth lines, and insert the word "appoint," and to add the word "only" at the end of the said clause,' inserted instead thereof.

And a Debate arising thereupon,

The Honourable Mr. Sherwood moved, seconded by Mr. Dunkin, and the Question being put, That this House do now adjourn, the House divided:—Yeas, 35. Nays, 48.

So it passed in the Negative.

And the Question being again proposed on the amendment, and a further Debate arising thereupon;

Ordered, That the Debate be adjourned until to-morrow, and that it be then the first Order of the Day.

The House resumed the adjourned Debate upon the amendment which was yesterday proposed to be made to the Question, That the Bill (to amend An Act respecting Separate Schools in Upper Canada, in so far as the same relates to Roman Catholic Schools) be now read the third time; and which amendment was, That all the words after 'now' to the end of the Question be left out, and the words 'recommitted to a Committee of the Whole House for the purpose of amending the thirteenth clause by leaving out the words "to grant certificates of qualification" in the third and fourth lines, and insert the word "appoint," and to add the word "only" at the end of the said clause,' inserted instead thereof.

And the Question being put on the amendment, the House divided: and the names being called for, they were taken down, as follow:—

YEAS:

Messieurs

Anderson,	Dickson,	McDougall,	Scatcherd,
Ault,	Dunkin,	McKellar,	Scoble,
Bell (North Lanark),	Dunsford,	Morris,	Simpson,
Biggar,	Ferguson,	Morrison,	Smith,
Bown,	Harcourt,	Mowat,	Somerville,
Burwell,	Haultain,	Munro,	Stirton,
Cameron, J. H.,	Hooper,	Notman,	Street,
Carling,	Howland,	Pope,	Walsh,
Cockburn,	Jackson,	Powell,	White,
Cowan,	Jones,	Ross, J. S. (Dundas),	Wilson and
Crawford,	Knight,	Rykert,	Wright.—47.
Daly,	Mackenzie,	Rymal,	

NAYS:

Messieurs

Abbott,	Dawson,	Huntington,	O'Halloran,
Alleyn,	DeCazes,	Huot,	Patrick,
Archambault,	Denis,	Joly,	Poupore,
Baby,	Desaulniers,	Kierzkowski,	Prevost,
Beaubien,	Dorion, A. A.,	Labreche-Viger,	Price,
Beaudreau,	Dorion, J. B. E.,	Laframboise,	Remillard,
Bell (Russell),	Dostaler,	Langevin,	Rose,
Benoit,	Drummond,	Macdonald, J. A.,	Ryerson,
Blanchet,	Dufresne, Alex.,	Macdonald, J.S.A.G.,	Scott,
Bourassa,	Dufresne, Jos.,	Macdonald, D. A.,	Sherwood,
Brousseau,	Evanturel,	McCann,	Sicotte (Atty. Gen.),
Caron,	Foley,	McGee,	Simard,
Cartier,	Fortier,	McLachlin,	Starnes,
Cauchon,	Fournier,	Mongenais,	Sylvan,
Chapais,	Gagnon,	Morin,	Tascherbau and
Clarke,	Gaudet,	Morton,	Tassé.—66.
Daoust,	Hebert,		

So it passed in the Negative.

And the Question being again proposed, That the Bill be now read the third time;

The Honourable Mr. Cameron moved, in amendment, seconded by Mr. Anderson, That all the words after 'now' to the end of the Question be left out, and the words 'recommitted to a Committee of the Whole House, for the purpose of adding the following words:—"It shall be the duty of the Council of Public Instruction for Upper Canada, from time to time, to name such persons as they may think fit in the respective cities and counties in Upper Canada, to grant certificates of qualification to teachers of Separate Schools; and no one shall be employed as a teacher of a Separate School unless and until he has obtained such certificate,"' inserted instead thereof.

Mr. Scott moved, in amendment to the proposed amendment, seconded by Mr. Poupore, That the words, 'It shall be the duty of the Council of Public Instruction for Upper Canada, from time to time, to name such persons as they may think fit, in the respective cities and counties in Upper Canada, to grant certificates of qualification to teachers of Separate Schools; and no one shall be employed as a teacher of a Separate School unless and until he has obtained such certificate,' be left out, and the words, 'The teachers of Separate Schools under this Act shall be subject to the same examination, and receive their certificates of qualification in the same manner as Common School teachers generally; provided that persons qualified by law as teachers, either in Upper or Lower Canada, shall be considered qualified teachers for the purposes of this Act,' inserted instead thereof.

And the Question being put on the amendment to the said proposed amendment, the House divided: and it was resolved in the Affirmative.

And the Question being put on the amendment to the original Question, as amended, it was resolved in the Affirmative.

Then the main Question, so amended, being put;

Ordered, That the Bill be now recommitted to a Committee of the Whole House for the purpose of adding the following words:—'The teachers of Separate Schools under this Act shall be subject to the same examination, and receive their certificates of qualification in the same manner as Common School teachers generally; provided that persons qualified by law as teachers, either in Upper or Lower Canada, shall be considered qualified teachers for the purposes of this Act.'

The House accordingly resolved itself into the said Committee, and after some time spent therein, Mr. Speaker resumed the Chair; and the Honourable Mr. Alleyne reported, that the Committee had gone through the Bill and made an amendment thereto.

Ordered, That the Report be now received.

The Honourable Mr. Alleyne reported the Bill accordingly, and the amendment was read and agreed to.

And the Question being again proposed, That the Bill be now read the third time;

The Honourable Mr. Cameron moved, in amendment, seconded by Mr. Anderson, That all the words after 'now' to the end of the Question be left out, and the words 'recommitted to a Committee of the Whole House for the purpose of leaving out, in clause 20, from the word "authorities," and inserting "Provided always, that the amount of the legislative grant to any Separate School in any one year shall not exceed the aggregate amount contributed by rates, fees, or otherwise, by the supporters of such Separate School in said year,"' inserted instead thereof.

And the Question being put on the amendment, the House divided: and the names being called for, they were taken down as follow:—

YEAS:

Messieurs

Anderson,	Ferguson,	Notman,	Stirton,
Ault,	Harcourt,	Powell,	Cockburn,
Biggar,	Haultain,	Ross, J. S. (Dundas)	Cowan,
Bown,	Hooper,	Scatcherd,	Mackenzie,
Burwell,	Jackson,	Scoble,	McKellar,
Cameron, J. H.,	Morris,	Sherwood,	Rykert,
Carling,	Morrison,	Simpson,	Rymal,
Dickson,	Mowat,	Smith,	White, and
Dunkin,	Munro,	Somerville,	Wright.—38.

NAYS:

Messieurs

Abbott,	DeCazes,	Huntington,	McLachlin,
Alleyn,	Denis,	Huot,	Mongenais,
Archambault,	Desaulniers,	Jobin,	Morin,
Baby,	Dorion, J. B. E.,	Joly,	Morton,
Beaubien,	Dostaler,	Kierzkowski,	O'Halloran,
Beaudreau,	Drummond,	Knight,	Poupore,
Benoit,	Dufresne, Alex.,	Labreche-Viger,	Prevost,
Blanchet,	Dufresne, Jos.,	Laframboise,	Rémillard,
Bourassa,	Evanturel,	Langevin,	Robitaille,
Brousseau,	Foley,	LeBoutillier,	Ryerson,
Caron,	Fortier,	Macdonald, J. A.,	Scott,
Cartier,	Fournier,	Macdonald, J.S.A.G.,	Simard,
Chapais,	Gagnon,	Macdonald, D. A.,	Sylvain,
Clarke,	Gaudet,	McCann,	Taschereau,
Crawford,	Hebert,	McDougall,	Tassé, and
Daoust,	Howland,	McGee,	Wilson.—35.
Dawson,			

So it passed in the Negative.

And the Question being again proposed, That the Bill be now read the third time;

Mr. Ferguson moved, in amendment, seconded by Mr. White, That all the words after 'now' to the end of the Question be left out, and the words 'recommitted to a Committee of the Whole House for the purpose of inserting, after the word "Township," in the last line of the twentieth section, the following:—"And that to entitle any Separate School to a share of such funds, it shall be requisite and sufficient that such school has been under the management of Separate School trustees appointed in the manner provided by this Act; that it has been in actual operation during at least three months in each school half-year, or six months during the whole year, and that it has been attended by an average attendance of at least fifteen children of school age, periods of epidemic or contagious diseases excepted," inserted instead thereof.'

And the Question being put on the amendment, the House divided: and it passed in the Negative.

And the main Question being put, the House divided: and the names being called for, they were taken down, as follow:—

YEAS:

Messieurs

Abbott,	Clarke,	Hebert,	Poupore,
Alleyn,	Crawford,	Huot,	Prevost,
Anderson,	Daoust,	Jobin,	Remillard,
Archambault,	Dawson,	Joly,	Robitaille,
Baby,	DeCazes,	Kierzkowski,	Rose,
Beaubien,	Denis,	Knight,	Ryerson,
Beaudreau,	Desaulniers,	Labreche-Viger,	Rykert,
Bell (Russell),	Dorion, A. A.,	Laframboise,	Scott,
Benjamin,	Dorion, J. B. E.,	Langevin,	Sherwood,
Benoit,	Dostaler,	Macdonald, J. A.,	Sicotte, (Att'y Gen.),
Blanchet,	Dufresne, Alex.,	Macdonald, J.S.A.G.,	Simard,
Bourassa,	Dufresne, Jos.,	McCann,	Simpson,
Brousseau,	Dunkin,	McDougall,	Somerville,
Buchanan,	Evanturel,	McGee,	Starnes,
Carling,	Foley,	McLachlin,	Sylvain,
Caron,	Fortier,	Mongenais,	Taschereau,
Cartier,	Fortier,	Morton,	Tassé,
Cauchon,	Gagnon,	O'Halloran,	Walsh and
Chapais,	Gaudet,	Patrick,	Wilson—76.

NAYS:

Messieurs

Ault,	Dickson,	McKellar,	Rymal,
Biggar,	Ferguson,	Morris,	Scatcherd,
Bown,	Harcourt,	Morrison,	Scoble,
Burwell,	Haultain,	Mowat,	Smith,
Cameron, J. H.,	Hooper,	Munro,	Stirton,
Cockburn,	Jackson,	Notman,	White and
Cowan,	Jones,	Powell,	Wright—31.
Daly,	Mackenzie,	Ross, J.S., (Dundas),	

So it was resolved in the Affirmative.

The Bill was accordingly read the third time.

Mr. Scott moved, seconded by Mr. McCann, and the Question being put, That the Bill do pass, and the Title be 'An Act to restore to Roman Catholics, in Upper Canada, certain rights in respect to Separate Schools.'

The House divided: and the names being called for, they were taken down, as follow:—

YEAS:

Messieurs

Abbott,	Crawford,	Huot,	Poupore,
Alleyn,	Dawson,	Jobin,	Prevost,

the names

Att'y Gen.),

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76.

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31.

being put,
Catholics,

were taken

Anderson,	Denis,	Joly,	Remillard,
Archambault,	Desaulniers,	Kierzkowski,	Robitaille,
Baby,	Dorion, A. A.,	Knight,	Rose,
Beaubien,	Dorion, J. B. E.,	Labreche-Viger,	Rykert,
Beaudreau,	Dostaler,	Laframboise,	Rymal,
Bell (Russell),	Dufresne, Alex.,	Langevin,	Scott,
Benjamin,	Dufresne, Jos.,	Macdonald, J. A.,	Sherwood,
Benoit,	Dunkin,	Macdonald, J.S.A.G.,	Sicotte (Att'y Gen.),
Blanchet,	Evanturel,	McCann,	Simard,
Bourassa,	Foley,	McDougall,	Simpson,
Brousseau,	Fortier,	McGee,	Somerville,
Buchanan,	Fournier,	McLachlin,	Starnes,
Carling,	Gagnon,	Morin,	Taschereau,
Caron,	Gaudet,	Morton,	Tassé,
Cartier,	Hebert,	O'Halloran,	Walsh and
Cauchon,	Howland,	Patrick,	Wilson—74.
Clarke,	Huntington,		

NAYS:

Messieurs

Ault,	Dickson,	McKellar,	Ross, J. S. (Dundas),
Biggar,	Ferguson,	Morris,	Scatcherd,
Bown,	Harcourt,	Morrison,	Scoble,
Burwell,	Haultain,	Mowat,	Smith,
Cameron, John H.,	Hooper,	Munro,	Stirton,
Cockburn,	Jackson,	Notman,	White and
Cowan,	Jones,	Powell,	Wright.—80.
Daly,	Mackenzie,		

So it was resolved in the Affirmative.

Ordered, That the Clerk do carry the Bill to the Legislative Council and desire their concurrence.

EXTRACT FROM CONFEDERATION DEBATES.

By reference to the Confederation Debates in the Canadian Assembly on the 3rd of February 1865, it will be noted that Sir Etienne Taché moved the following resolution:—

'That an humble Address be presented to Her Majesty, praying that she may be graciously pleased to cause a measure to be submitted to the Imperial Parliament for the purpose of uniting the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island in one Government, with provisions based on the following Resolutions, which were adopted at a Conference of Delegates from the said Colonies, held at the City of Quebec, on the 10th October, 1864.'

Paragraph 43 reads as follows:—

'The Local Legislatures shall have power to make laws respecting the following subjects:—

'Item 6. Education; saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their denominational schools at the time when the union goes into operation.'

When that item came up for discussion the Honourable J. S. Macdonald moved the following amendment to it:—

That the following words be added to the original motion:—And that it be an instruction to the said Committee to consider whether any constitutional restriction which shall exclude from the Local Legislature of Upper Canada the entire control and direction of education, subject only to the approval or disapproval of the General Parliament, is not calculated to create widespread dissatisfaction, and tend to foster and create jealousy and strife between the various religious bodies in that section of the province.

The amendment was negatived on the following division:—

YEAS:

Messieurs

Biggar,	Macdonald	Rymal,	Wallbridge
Burwell,	(Toronto West),	Scatcherd, and	(N. Hastings).—8.
Macdonald	Ross		
(Cornwall),	(Prince Edward),		

NAYS:

Messieurs

Abbott,	De Niverville,	Jones (South Leeds),	Poulin,
Alleyn,	Dixon,	Knight,	Poupore,
Archambault,	Dorion	Labreche-Viger,	Powell,
Ault,	(Drum'd & A'bska),	Laframboise,	Raymond,
Beaubien,	Dorion (Hochelaga),	Lajoie,	Remillard,
Bellerose,	Duckett,	Langevin,	Robitaille,
Blanchet,	Dufresne	LeBoutillier,	Rose,
Bourassa,	(Iberville),	Macdonald,	Ross (Champlain),
Bowman,	Dufresne	(Attorney General,	Ross (Dundas),
Bown,	(Montcalm),	Mackenzie	Scoble,
Brousseau,	Dunsford,	(Lambton),	Shanly,
Brown,	Evanturel,	Mackenzie	Smith
Cameron	Ferguson	(North Oxford),	(East Durham),
(North Ontario),	(Frontenac),	Magill,	Smith
Carling,	Fortier,	McConkey,	(Toronto East),
Caron,	Galt,	McDougall,	Somerville,
Cartier, Atty. Gen.,	Gaucher,	McGee,	Stirton,
Cartwright,	Gaudet,	McGivern,	Sylvain,
Cauchon,	Geoffrion,	McIntyre,	Thompson,
Chapais,	Gibbs,	McKellar,	Tremblay,
Cockburn,	Harwood,	Morris,	Walsh,
Cornellier,	Haultain,	Morrison,	Webb,
Coupal,	Higginson,	Paquet,	Wells,
Cowan,	Holton,	Parker,	White,
Currier,	Houde,	Perrault,	Wilson, and
DeBoucherville,	Howland,	Pinsonneault,	Wood.—95.
Denis,			

EXTRACT FROM BRITISH NORTH AMERICA ACT, 1867.

Education.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

- (1.) Nothing in any such Law shall prejudicially affect any right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
- (2.) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:
- (3.) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
- (4.) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

EXTRACT FROM MANITOBA ACT.

The educational clause in the Imperial Act granting a constitution to the Province of Manitoba, reads as follows:—

In and for the Province the said Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

- (1.) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law or Practice in the Province at the Union.
- (2.) An Appeal shall lie to the Governor General in Council from any Act or Decision of the Legislature of the Province, or of any

Provincial Authority, affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education.

- (3.) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case may require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

EXTRACT FROM COMMONS HANSARD, 1870.

The following is the debate and the division on the motion for its adoption in the Parliament of Canada:—

Mr. OLIVER moved that the Educational Clause be struck out.

Hon. Mr. CHAUVEAU hoped the amendment would not be carried. It was desirable to protect the minority in Manitoba from the great evil of religious dissensions on education. There could be no better model to follow in that case than the Union Act, which gave full protection to minorities. It was impossible to say who would form a majority there, Protestants or Catholics. If the population were to come from over the seas, then the Protestants would be in a majority. If, as had been asserted, Manitoba was to be a French preserve, then the Catholics would be a majority. He did not care which, because he desired only to see the new province freed from discussions which had done so much injury in the old provinces of Canada. They presented a problem to the whole world, and the question was, could two Christian bodies, almost equally balanced, be held together under the British Constitution. He believed that problem could be worked out successfully.

Hon. Mr. McDougall, M.C., said the effect of the clause, if not struck out, would be to fix laws which the Local Legislature could not alter in future, and that it would be better to leave the matter to local authorities to decide, as in the other provinces. He quite agreed with his hon. friend in giving the same powers to this province as the others, and it was for that reason that he desired to strike out the clause.

Hon. Sir George E. Cartier referred to the manner in which the Red River country had been settled, and grants of land which had been made to the clergy for the purposes of education.

Mr. MACKENZIE was prepared to leave the matter to be settled exclusively by the Local Legislature. The British North America Act gave all the protection necessary for minorities; and local authorities understood their own local wants better than the General Legislature. It was his earnest desire to

avoid introducing into the new province those detrimental discussions which had operated so unhappily on their own country, and therefore hoped the amendment would be carried.

After a long discussion, a division was taken on the amendment:—Yeas, 34. Nays, 81.

YEAS:

Messieurs

Ault,	Jones	Morrison	Rymal,
Bodwell,	(Leeds & Grenville)	(Victoria, O.),	Snider,
Bolton,	Kirkpatrick,	Oliver,	Stirton,
Bowell,	Macdonald	Redford,	Thompson (Ontario),
Bowman,	(Glengarry),	Ross (Dundas),	Wallace,
Brown,	Mackenzie,	Ross (Prince Edward),	Wells,
Connell,	McConkey,	Ross	White,
Dobbie,	McDougall (Lanark),	(Victoria, N.S.),	Wright, (York,
Drew,	Metcalfe,	Ross	Ont., W.R.), and
Ferguson,	Mills,	(Wellington C.R.),	Young.—34.

NAYS:

Messieurs

Archambeault,	Coupal,	Huot,	Morison
Archibald,	Crawford	Hurdon,	(Niagara),
Beaubien,	(Brockville),	Keeler,	O'Connor,
Bécharde,	Daoust,	Lacerte,	Peltier,
Bellerose,	Dorion,	Langevin,	Perry,
Benoit,	Dufresne,	Langlois,	Pinsonneault,
Blanchet,	Duncan,	Lawson,	Pope,
Bourassa,	Fortier,	Le Vesconte,	Pouliot,
Brown,	Fortin,	McDonald	Pozer,
Brousseau,	Gaucher,	(Lunenburg)	Ray,
Burtin,	Gaudet,	McDonald	Renaud,
Cameron (Peel),	Geoffrion,	(Middlesex),	Robitaille,
Campbell,	Gendron,	Masson	Ryan (King's, N.B.),
Carling,	Gibbs,	(Soulanges),	Savary,
Caron,	Godin,	Masson	Scatcherd,
Cartier	Grant,	(Terrebonne),	Scriver,
(Sir George E.),	Gray,	McDougall	Shanly,
Casault,	Grover,	(Three Rivers),	Stephenson,
Cayley,	Heath,	McGreevy,	Tilley,
Chauveau,	Hincks	McKeagney,	Tremblay,
Cheval,	(Sir Francis),	Merritt,	Walsh, and
Cimon,	Holmes,	Morris,	Wilson.—81.
Costigan,	Holton,		

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A Brief Sketch from 'Hansard' showing the Reasons why Separate Schools were established when granting a Constitution to the North-west Territories.

On the 12th March, 1875, the Hon. Mr. Mackenzie, then Premier, when introducing the Act to amend and consolidate the laws respecting the Territories, is reported in the Commons *Hansard*, page 653, as follows :—

As he intimated on a former occasion, the Government decided some time ago to establish an entirely independent Government in those Territories. To a certain extent it would have been advisable, before such an Act was passed, if it could be done, to have the boundary of Manitoba rectified, but that was a matter which it was difficult to deal with at the present moment.

In the Bill, as first introduced, no reference was made to the subject of education, and this omission was made the subject of comment at a later stage of the debate.

The following extracts from the speech of the Hon. Edward Blake, then an independent Liberal, gives his views on the Bill submitted :—

The task which the Ministry had set for itself was the most important it was possible to conceive. To found primary institutions under which we hope to see hundreds of thousands, and the more sanguine of us think, millions of men and families settled and flourishing, was one of the noblest undertakings that could be entered upon by any legislative body, and it was no small indication of the power and true position of this Dominion that Parliament should be engaged to-day in that important task. He agreed with the hon. member for Kingston (Sir John A. Macdonald) that the task was one that required time, consideration and deliberation, and they must take care that no false steps were made in such a work. He did not agree with that right hon. gentleman that the Government ought to repeal his errors. The right hon. gentleman had tried the institutions for the North-west Territories which he now asked the House to frame, and for the same reason as he had given to-day—that it would be better for the Dominion Government to keep matters in their own hands and decide what was best for the future. He (Mr. Blake) believed that it was essential to our obtaining a large immigration to the North-west that *we should tell the people beforehand what those rights were to be in the country in which we invited them to settle.*

* * * * *

He regarded it as essential, under the circumstances of the country, and in view of the deliberation during the last few days, that a general principle should be laid down in the Bill with respect to public instruction. He did believe that we ought not to introduce into that territory the heartburnings and difficulties with which certain other portions of the Dominion and other countries had been afflicted. It seemed to him, having regard to the fact that, as far as we could expect at present, the general character of that population

would be somewhat analogous to the population of Ontario, that there should be some provision in the constitution by which *they should have conferred upon them the same rights and privileges in regard to religious instruction as those possessed by the people of the province of Ontario. The principles of local self-government and the settling of the question of public instruction seemed to him ought to be the cardinal principles of the measure.*

When answering Mr. Blake, the Premier is reported as follows :—

As to the subject of public instruction, it did not in the first place attract his attention, but when he came to the subject of local taxation, he was reminded of it. Not having had time before to insert a clause on the subject, he proposed to do so when the Bill was in Committee. The clause provided that the Lieutenant-Governor, by and with the consent of his Council or Assembly, as the case might be, should pass all necessary Ordinances in respect of education, but it would be specially provided that the majority of the ratepayers might establish such schools and impose such necessary assessment as they might think fit; *and that the minority of the ratepayers, whether Protestant or Roman Catholic, might establish separate schools;* and such ratepayers would be liable only to such educational assessments as they might impose upon themselves. This, he hoped, would meet the objection offered by the hon. member for South Bruce.

Mr. D. A. Smith, then member for Selkirk (the present Lord Strathcona), touched upon the subject in the following words :—

The point brought up by the hon. member for South Bruce (Mr. Blake) was an important one, and he was glad to find that the First Minister intended to introduce a provision in Committee dealing with the subject.

The following extract is given as showing the opinion of the late Hon. David Mills, who has always been regarded as a high authority on constitutional subjects:

There was another matter it seemed to him ought not to be disregarded; and that was the terms and conditions under which these people would ultimately be formed into a province. *It would be better that the people who settle that territory should know beforehand the terms and conditions under which they would become an organized part of the Dominion.* He saw no objection, when the population became sufficiently large, to allowing that territory to be represented in the Dominion Parliament before it was organized into a province.

The educational clause, as introduced in committee, section 11, reads as follows :—

When, and so soon as any system of taxation shall be adopted in any district or portion of the North-west Territories, the Lieutenant-Governor, by and with the consent of the Council or Assembly, as the case may be, shall pass all necessary Ordinances in respect to education; but it shall therein be always provided, that a majority of the ratepayers of any district or portion of the North-west Territories, or any lesser portion or sub-division thereof, by whatever name the same may be known, may establish such schools therein as they may think fit, and make the necessary assessment and collection of rates therefor; and further, that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish Separate Schools therein, and that, in such latter case, the ratepayers establishing such Protestant or Roman

Catholic Separate Schools shall be liable only to assessments of such rates as they may impose upon themselves in respect thereof.

The Bill passed through its several stages in the House of Commons without any opposition; not a single observation is to be found in the debate intimating that any one member dissented to the educational clause.

In the Senate, on the motion for the third reading by Mr. Scott, Mr. Aikins said :—

He was opposed to a provision in this Bill. In the 11th clause provision was made for the maintenance of certain schools for Protestants and Roman Catholics separately. He thought it was unwise to introduce anything of this nature into the Bill. He, therefore, moved, seconded by the Hon. Mr. Flint, to strike out all the words after 'therefor' in the 12th line.

The following extracts from the debate prove conclusively that it was recognized by both opponents and supporters of separate schools that the Bill was adopting a constitutional principle which could not afterwards be changed.

Mr. Brown said : The safe way for us was to let each province suit itself in such matters. This country was filled by people of all classes and creeds, and there would be no end of confusion if each class had to have its own peculiar school system. It had been said this clause was put in for the protection of the Protestants against the Catholics, the latter being the most numerous. But he, speaking for the Protestants, was in a position to say that we did not want that protection.

Mr. Scott, in reply, among other observations, said :

Any gentleman would have to admit that it was the greatest possible relief to the people of Ontario that this question was settled for them, and was not, as in some of the other provinces, a source of constant discord. He was one of those who maintained that parents had a right to educate their children as they pleased, and that they ought not to be taxed to maintain schools to which they could not conscientiously send their children. Our whole system of Government was based upon that sound principle, and how long could we have happiness and peace in this country if we were to abolish that safeguard, which was now recognized in both the large provinces? Would not every gentleman in this Chamber gladly see the New Brunswick trouble removed? Now was the proper time to establish in the new territory a principle that ought years ago have been established in this Dominion. He hoped hon. gentlemen would not take advantage of their majority to force upon the House a principle to which many were conscientiously opposed.

Hon. Mr. Miller said :—

Parliament had an undoubted right, under these circumstances, to make such provisions regarding the question of education, or any other question, for this new territory, as in its wisdom it thought best for the future peace and well-being of the country. The difficulties they had already encountered in the old provinces in regard to education should be a warning to them to prevent similar troubles arising in the provinces they hoped to see spring up in the North-west. This policy had been applied to Manitoba, and who can deny that that course had been wise, and would save that province from all the discord and bitter agitation through which the older provinces were either

passing or had already passed. It was unfortunate that the Act of Union had not settled the educational rights of all the old provinces on a just and liberal basis, as had been done in Ontario and Quebec.

* * * * *

He thought they should take a lesson from their past experience, and deal with the subject in a fair and liberal spirit. All the Bill asked was that all parties in that new country should have such schools as they chose to establish at their own expense, and that minorities would at all times be safe against the tyranny or intolerance of majorities. That would not be interfering with the just rights of any body or clan; but, on the contrary, it would be guaranteeing the rights of all classes. *It would simply be providing, while they had the power to do so, for freedom of conscience with regard to the vexed question of education.* It should be borne in mind that the body to which he belonged felt deeply in this question, and would never quietly submit to injustice or oppression in reference to it. That body comprised forty-five or forty-seven per cent of the whole population of this Dominion, and although they did not possess a fair representation in the Senate in proportion to population, they were still strong enough here and elsewhere to resist injustice and vindicate their conscientious views with regard to this or any other question.

Hon. Mr. Letellier de St. Just said :—

The Government knew that great difficulties had already arisen in the existing provinces with regard to the school question, and it was to prevent these difficulties in the new province that this clause had been introduced. He thought we ought to try as much as possible to legislate for the peace and harmony of all classes, whenever we had the power to do so. He would not say any more, but only express the hope that this House would not accept the amendment of his hon. friend.

Hon. Mr. Ryan :—

Argued children should be taught religion, while acquiring secular knowledge; if not so instructed on week days, it would be difficult to inculcate religion at all. The tendency of the amendment was to ignore religious education altogether. The clause of the Bill did not necessarily involve Separate Schools, but merely gave the minority, and the majority as well, the right to choose their own schools. It was the duty of this House to see to the protection of the minorities.

Hon. Sir Alexander Campbell, leader of the opposition, said :—

It would be much to be regretted if the amendment passed. The object of the Bill was to establish and perpetuate in the North-west Territories the same system as prevailed in Ontario and Quebec, and which had worked so well in the interest of peace and harmony with the different populations of those provinces. He thought the fairer course, and the better one, for all races and creeds, was to adopt the suggestion of the Government and enable people to establish Separate Schools in that territory, and thus prevent the introduction of evils from which Ontario and Quebec had suffered, but had judiciously rid themselves.

Hon. Mr. Penny said, though he was not an admirer of the separate school system, it had been found necessary, in the interest of peace, to adopt it for Quebec

and Ontario, and, as a similar agitation for it would naturally arise in the North-west in the course of time, *we might as well settle the matter at once by allowing the creation of separate schools.*

Hon. Mr. Brown said he concurred with what had fallen from his hon. friends on the treasury benches, and from hon. gentlemen who had spoken on the amendment, with respect to the propriety of allowing separate schools. But the question was not whether those schools were right or wrong, good or bad, but as to whether it was wise for this country to deal with this question. He quite admitted the importance of the issue which had been raised—whether this matter should be referred to the provinces interested for settlement, or be brought to the Dominion legislature.

* * * * *

Hon. Mr. Brown later spoke as follows :—

The moment this Act passed, and the North-west became part of the Union, they came under the Union Act, and under the provisions with regard to Separate Schools.

The vote was taken on Mr. Aikens' amendment. Contents, 22; Non-contents, 24. Amendment lost.

It does not appear that there was any adverse criticism in the press, though the clauses in the Bill were referred to in the leading newspapers of the period, and as far as can be ascertained the Act was accepted at the time in the Territories without dissent.

Under the Territorial legislation, the rights of the minority have in the past been recognized. It would be a breach of faith and a violation of the British North America Act to disturb now the rights and privileges granted by the Parliament of Canada thirty years ago, and enjoyed by the minorities up to the present time.

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